

February 23, 2006

Walter Cruickshank, Acting Director  
Minerals Management Service (MS-4024)  
Attention: Rules Processing Team  
381 Elden Street  
Herndon, VA 20170-4817

**Re: Alternate Energy-Related Uses on the Outer Continental Shelf (RIN-1010-AD30)  
Delaware Coastal Management Program Comments**

Dear Mr. Cruickshank:

Fostering the development of the alternate energy potential of the Outer Continental Shelf (OCS) may supplement and hopefully diminish our nation's dependence on fossil fuels and concurrently reduce carbon dioxide emissions, mercury deposition, and other associated combustion byproducts. It is important, however, that the environmental benefits of alternate energy are not counterbalanced by adverse impacts to coastal and ocean resources. Innovative technologies offer exciting new possibilities for harnessing energy from sources such as wind, wave, current and solar power. In many cases unfortunately, the challenge of such innovation is the lack of information on the feasibility of such endeavors and the associated coastal resource impacts. As such, a phased approach for exploration and construction, coupled with continuous monitoring of impacts and a contingency plan should those impacts prove too detrimental, is recommended. This will undoubtedly require intense coordination among state and federal government agencies, the scientific community, project proponents and other stakeholders.

Activities conducted on the OSC are subject to the Federal Consistency regulations as provided for by 15 CFR part 930 subpart E of the Coastal Zone Management Act. As a regulatory agency, the Delaware Coastal Management Program anticipates being involved throughout the consultation and permitting process of OCS activities affecting the coastal resources of the State of Delaware. We appreciate the opportunity to comment on the proposed rulemaking process.

Comments specific to the program areas identified by MMS are offered below:

### Access to OCS Lands and Resources

As alternate energy production on the OCS is in its infancy, a phased approach to granting access and issuing permits on a case by case basis is advisable. Modifications of the lease sale process based on information gained could be incorporated into future permitting as alternate energy production “matures”.

Projects on the OCS with pipelines or buried cables crossing within the three mile seaward boundary of the State of Delaware’s jurisdiction may be required to obtain a State permit or lease for the use of state owned subaqueous lands. Any land based activities such as support facilities or the termination of pipelines or cables may also be subject to State regulation.

Lease sales should not preclude future use of OCS resources such as sand and gravel extraction for beach replenishment. This can be avoided by evaluating sites for incompatible uses and selecting sites for lease that minimize conflict. For instance, a wind farm need not be sited over an extensive sand deposit if another site offers conditions favorable to harnessing wind power that does not impede future sand extraction. The same premise holds true for minimizing environmental impacts. Areas of unique habitat should be avoided, whereas areas of lesser biological significance may be utilized.

Preliminary data collection from vessels should require a permit from the Mineral Management Service (MMS) as a means to track activities on the OCS. At the very least, MMS should be aware of the company involved, the location, the type of data being collected and its intended purpose.

### Environmental Information, Management, and Compliance

Design of preliminary site-specific studies should be the responsibility of the permit applicant and should be designed in cooperation with MMS and potential affected state(s), and should follow established MMS guidelines and regulations. Resource agency scientists should be given the opportunity to review the results of studies for accuracy and due diligence.

Preexisting data that may be of benefit to the applicant should be made available by MMS. Environmental management systems could be monitored by the applicant with periodic compliance checks conducted by MMS or an independent third party.

### Operational Activities

If geographically applicable, environmental windows, taking into consideration migration patterns of at risk species such as the Atlantic Right Whale, should be implemented during construction and removal phases. Minimization and avoidance of environmental impacts and mitigation for unavoidable impacts should be considered during all phases of the project and coordinated with appropriate agencies.

Payments and Revenues

A revenue sharing process, similar perhaps to that already established for oil and gas production activities, guaranteeing neighboring and affected states a percentage of receipts should be required. Offshore activities have the potential to not only adversely affect coastal resources, but by interrupting vistas, increasing light pollution, and restricting access for ocean activities such as deep sea fishing, tourism could be impacted as well. The economy of many coastal states, including Delaware, is based heavily on tourist revenue and potential disruptions to this revenue stream should be weighted heavily in the OCS lease sale process and states must be compensated accordingly.

Coordination and Consultation

A targeted survey of coastal states may help MMS to better assess potential concerns and objectives. A similar survey of the alternative energy industry may highlight areas of compatibility.

Of the utmost importance is maintaining open communication and ongoing consultation with affected states' governors, state environmental protection agencies, and federal resource agencies such as the National Oceanic and Atmospheric Administration, the U.S. Fish and Wildlife Service, and the Environmental Protection Agency. Workshops between MMS and these government organizations to exchange information on the development of rules, guidelines and regulations would be mutually beneficial. Further, Regional Taskforces, involving these same agencies and various stakeholders with input from the general public, should be established early on in the decision making and project review process to ensure that all concerns are addressed. Tracts to be included or excluded for lease sale could be identified by the taskforce. This coordinated approach would benefit the permittee as information deficiencies and fatal flaws could be identified and addressed during initial project phases.

Again, thank you for the opportunity to comment on alternate energy-related uses on the Outer Continental Shelf. I look forward to collaborating on this endeavor in the future.

Sincerely,

Sarah W. Cooksey, Administrator  
Delaware Coastal Programs